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*Attorneys for Plaintiff Blendtec Inc.*

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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**BLENDTEC INC.**, a Utah corporation,  
  
Plaintiff,

vs.

**BLENDJET INC.**, a Delaware corporation,  
  
Defendant.

**BLENDTEC’S MOTION TO COMPEL  
BLENDJET TO PRODUCE  
DOCUMENTS RESPONSIVE TO  
RFPS 31, 33, 35, 36, AND 37**

Civil No. 2:21-cv-00668-TC-DBP

Judge Tena Campbell  
Magistrate Judge Dustin B. Pead

On November 21, 2022, Blendtec served its Second Set of Discovery Requests (**Exhibit 1**). In its December 21, responses (**Exhibit 2**), Blendjet agreed to produce documents in response to RFPS 31, 33, 35, 36, and 37. Despite this, Blendjet has not produced any documents responsive to these requests. On January 19, Blendtec sent a deficiency notice and requested that Blendjet produce responsive documents by January 31 (**Exhibit 3**). Blendjet failed to do so. On February 7 (1:00), Blendtec’s counsel (Brett Foster and Tammy Kapaloski) conferred telephonically with

Blendjet's counsel (Patrick McGill and Jesse Salen). During that conference, Blendjet did not commit to a specific date to produce these documents, stating only that its production was "rolling."

Blendtec served its Second Set of Discovery Requests *eighty days ago*. Fact discovery closes on March 31, 2023. *See* ECF 35 (Second Amended Scheduling Order) at 1. Blendtec has noticed seven fact witness depositions, with the first scheduled to occur on March 6, 2023 (less than one month from now). Blendjet's discovery tactics and failure to produce information in response to Blendtec's discovery requests has severely prejudiced Blendtec's ability to prosecute its case and prepare for depositions.<sup>1</sup> As a result, the Court should order Blendjet to produce documents responsive to RFPs 31, 33, 35, 36, and 37 within ten days and to pay attorneys' fees incurred by Blendtec as a result of Blendjet's improper delay and failure to produce relevant documents.

DATED this 10th day of February, 2023.

DORSEY & WHITNEY LLP

/s/ Tamara L. Kapaloski

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*Attorneys for Plaintiff Blendtec Inc.*

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<sup>1</sup> This is the *fifth* motion to compel that Blendtec has been forced to file in an attempt to get Blendjet to produce documents: (1) ECF 50 (motion to compel Blendjet to respond to Blendtec's June 22 discovery requests); (2) ECF 53 (motion related to scope of email discovery); (3) ECF 66 (motion to compel Blendjet to produce documents responsive to RFP 32); and (4) ECF 67 (motion to compel Blendjet to produce documents responsive to RFP 34). ECF Nos. 50 and 53 were filed on January 6, 2023, and are still pending.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of February, 2023, a true and correct copy of the foregoing document was served on counsel of record via the Courts CM/ECF System which sent notice to counsel of record:

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